

# SUMMARY ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Knox Analyst: Colin Stevens Bill Number: AB 385

Related Bills: See Prior Analysis Telephone: 845-3036 Amended Date: 5/20/99

Attorney: Patrick Kusiak Sponsor:

**SUBJECT:** FTB Disclosure of Tax Return Information To Charter Cities if Written Agreement Exists

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

☒ FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED APRIL 28, 1999, STILL APPLIES.

OTHER - See comments below.

### SUMMARY OF BILL

Under the Administration of Franchise and Income Taxes (AFITL), this bill would permit the Franchise Tax Board (FTB) to disclose California income tax information to tax officials of charter cities in California. Disclosure would be under a written agreement and would be limited to (1) information essential for tax administration purposes, (2) information regarding only taxpayers with a business or residence-based business located within the charter city, and (3) a taxpayer's name, address, social security or taxpayer identification number, and business activity code. Use of the information would be limited to employees of the taxing authority of a charter city.

The charter city first would be required to certify to the FTB that taxpayers in the business activity codes for which information is requested are subject to tax under the city's ordinance. However, disclosure of information on individuals self-identified as engaging in business or professional activity code 711510 or 711130 would not be allowed if certain conditions are met.

### SUMMARY OF AMENDMENT

The May 20, 1999 amendments:

- Removed a provision that specified charter cities could receive information only under affidavit unless requested pursuant to a written agreement;
- Altered the timeframe for responding to the FTB notice of intent to report the taxpayer's identity to the charter city. The amendment specifies that FTB could provide information to a charter city on these individuals only if the taxpayer does not certify within 90 days of issuance of the notice;
- Removed a provision that specified that the FTB may not use information for taxpayers self-identified in professional activity code 71150 or 71130 for purposes of a municipal tax amnesty or other municipal tax enforcement program.

### Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input checked="" type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Department/Legislative Director Date

Johnnie Lou Rosas 6/9/1999

Except for the discussion above, the resolution of the implementation consideration relating to the receipt of notice by taxpayers, and the new technical consideration relating to the limitation of information that can be provided to a charter city, the department's analysis of AB 385 as amended April 28, 1999, still applies.

#### Technical Considerations

This bill could be read to limit the information that could be provided to a charter city under affidavit, which currently is not limited. If the author does not intend to limit the information that can be provided under affidavit, he may wish to amend this bill to specify that the provision created by this bill would not limit the information that can be provided under affidavit.

The repeal language in this bill varies from the language typically provided to repeal a section. Amendment 1 would provide language similar to the language usually contained in the R&TC.

Code 711130 is a valid code within the North American Industry Classification System, but it is not utilized for purposes of federal principal business or professional activity reported on a taxpayer's federal tax return. To ensure that the bill excludes the intended taxpayers from having information reported to cities, the author may wish to revise the reference to code 711130.

The bill specifies that information may not be provided on a taxpayer who identified his or her business or professional activity code for federal income tax purposes as described under federal codes encompassing "independent writers, artists, and performers" and "musicians," but then states that the taxpayer must certify that he or she is a "writer, musician, director, or other creative artist." The terms used by the bill should be consistent.

#### BOARD POSITION

Neutral.

At its March 23, 1999, meeting, the Franchise Tax Board voted to take a neutral position on this bill as introduced February 11, 1999.

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 385  
As Amended May 20, 1999

AMENDMENT 1

On page 4, lines 20-21, strike "unless a later enacted statute deletes or extends that date"